

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Joshua Alan McBee,	)	Case No.: 1:24-cv-7310-JD-SVH
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER AND OPINION</b>
Spartanburg County,	)	
	)	
Defendant.	)	
	)	

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This matter is before the Court with the Report and Recommendation (“Report”) of United States Magistrate Judge Shiva V. Hodges (DE 7), made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina concerning the Magistrate Judge’s initial review of Plaintiff Joshua Alan McBee’s (“Plaintiff” or “McBee”) pleadings.<sup>1</sup>

### **A. Background**

The Report sets forth the relevant facts and legal standards, which the Court incorporates without a complete recitation. In any event, the Court provides this summary as a brief background.

McBee, proceeding *pro se* and *in forma pauperis*, sued Defendant Spartanburg County (“Defendant”) under 42 U.S.C. § 1983. Plaintiff alleges that the conditions of confinement and treatment he received at the Spartanburg County Detention Center

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

between May 2024 and December 2024 “were so inadequate as to be intolerable to fundamental fairness.” (DE 1 at 4–5.) Specifically, Plaintiff asserts that Jennifer Neely (“Neely”), Jeremy Randell (“Randell”), Shannon Peeler (“Peeler”), Olivia Roach (“Roach”), Melinda Brackles (“Brackles”), Dr. McDonald, and Nurse Lucy denied him necessary dental care. He further alleges that Officer Hellum warned him not to mention the Eighth Amendment or he would be placed in “lock up.” (*Id.* at 5–6.)

Plaintiff currently has a separate case pending against Neely, Randell, Peeler, Roach, Brackles, Dr. McDonald, and Nurse Lucy related to the alleged denial of dental care. *See McBee v. Neely*, C/A No. 1:24-6270-JD-SVH (“McBee I”).

## **B. Report and Recommendation**

The Magistrate Judge reviewed Plaintiff’s *pro se* Complaint under the procedural provisions of 28 U.S.C. § 1915, applying the less stringent standard afforded to pleadings filed by pro se litigants. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). Based on an initial review of the pleadings, the Magistrate Judge issued the Report on January 6, 2025, recommending that Plaintiff’s Complaint be summarily dismissed for these reasons (among others):

- Plaintiff fails to identify any governmental policy or custom that allegedly caused the violation of his constitutional rights;
- The Complaint is subject to summary dismissal under the Eleventh Amendment, which bars certain claims against state entities; and
- Plaintiff is already pursuing similar claims against the same individuals in McBee I, rendering the present lawsuit duplicative. As such, the Complaint is frivolous and subject to dismissal in the interest of judicial economy and efficiency, and no opportunity to amend is warranted.

(DE 7 at 4-5.) Plaintiff did not object to the Report.

### C. Legal Standard

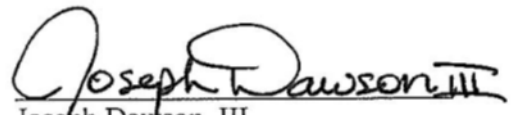
In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

### D. Conclusion

Since Plaintiff has not objected, after a thorough review of the Report and Recommendation and the record in this case, the Court finds no clear error on the face of the record. Thus, the Court adopts the Report (DE 7) and incorporates it here by reference.

It is, therefore, **ORDERED** that Plaintiff’s Complaint (DE 1) is dismissed.

**IT IS SO ORDERED.**

  
Joseph Dawson, III  
United States District Judge

Florence, South Carolina  
May 2, 2025

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order within thirty (30) days from this date under Rules 3 and 4 of the Federal Rules of Appellate Procedure.